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tion of the parties. 1 MINOR, REAL PROP., § 291. By the weight of authority, this same right is given to tenants in dower and by the curtesy. 1 WASHBURN, REAL PROP., p. 110; *Macauley v. Dismal Swamp Co.*, 2 Rob. (Va.) 507. But as the basis of the rule, the presumed intention of the parties, does not enter into these cases, it is difficult to justify the holding on principle. 1 MINOR, REAL PROP., § 291. See *Brackett v. Persons Unknown*, 53 Me. 238, 87 Am. Dec. 548.

In the exercise of their right to cut timber tenants must use the care of good husbandmen, and not lessen the permanent value of the property. *Rutherford v. Wilson*, 95 Ark. 246, 129 S. W. 534, 37 L. R. A. (N. S.) 753. Enough timber must be left to satisfy the ordinary needs of the land, and one who cuts all the timber from the land is guilty of waste. *Proffitt v. Henderson*, 29 Mo. 325. A tenant by act of the law can clear wooded land and put it under cultivation when reasonably necessary. *Rutherford v. Wilson*, *supra*. The scarcity of timber does not prevent it being used to make repairs on the estate, but only requires that more care be used not to injure the inheritance, the tenant being forbidden to cut young trees. *Calvert v. Rice*, 91 Ky. 533, 16 S. W. 351, 34 Am. St. Rep. 240. Nor is it waste to sell timber cut from lands in order to realize funds with which to make needed repairs. *Loomis v. Wilbur*, 5 Mason 13, Fed. Cas. 8,498. The decision in the principal case seems sound; since the repairs were badly needed and increased the value of the inheritance.

WILLS—CONSTRUCTION—DEED OR WILL.—An instrument in the form of a deed but which contained a provision that it was to take effect only after the grantor's death, was delivered to the plaintiffs and duly recorded by them. Later the grantor made another deed of the same property to the defendants which was also duly recorded. The plaintiffs now seek to have the second deed cancelled. *Held*, the first instrument is testamentary in character and not a deed. *Simpson et al. v. McGee et al.* (Miss.), 73 South. 55. For principles involved, see 3 VA. LAW REV. 324.